



Date of Planning Commission Meeting: July 20, 2006

TOWN OF LEESBURG
PLANNING COMMISSION PUBLIC HEARING MEETING

Subject: Zoning Ordinance text amendments TLOA-2006-0002 to implement certain objectives of the 2005 Town Plan and to update various sections.

Staff Contact: Brian Boucher, Zoning Administrator
Kevin Lawlor, Assistant Zoning Administrator
Chris Murphy, Zoning Planner
Wade F. Burkholder, Zoning Planner

Recommendation: Staff recommends that the following sections of the Zoning Ordinance be amended as proposed to begin implementation of the 2005 Town Plan and to correct deficiencies identified through actual implementation of the ordinance.

Issue: Should the Zoning Ordinance text be amended to change the sections identified by staff as needing revision as soon as practicable?

Background: On April 25, 2006 Council adopted a resolution which initiated and referred to the Planning Commission Zoning Ordinance amendments to address issues in the 2003 Zoning Ordinance. The proposed amendments are recommended by staff to begin implementation of the goals and objectives of the 2005 Town Plan, to solve what staff identifies as inadequacies in the Zoning Ordinance, or as an effort to benefit from the experiences learned through the development process to create an ordinance that more clearly reflects the goals of Council to provide reasonable standards and procedures to regulate land use. Each proposed amendment is discussed briefly below. A list of the proposed amendments is appended to the end of this report. Note: Deletion of words or provisions is shown in a strike-through format with new, proposed language underlined.

The Commission must determine if it is advisable to amend the Zoning Ordinance as proposed. In reaching its conclusion the Commission should consider the following information. Note that some changes have been made as a result of the work session held on July 6, 2006. Those changes are highlighted and a brief discussion is given in bold type below the italicized introduction paragraph for each amendment.

1. Section 2.3.3 B.A.R. Members Terms

Board of Architectural Review (B.A.R.) members currently serve a tenure coterminus with that of the individual Town Council member who appointed them, with terms beginning in an election year on July 1 and ending four years later on July 30 (except in the case of the Mayor's appointee, who serves the same two year term as the Mayor). The Zoning Ordinance still references the old three-year terms based on a staggered tenure system.

Two minor changes were made to the language upon recommendation of the Town Attorney.

2.3.3 Members, Compositions and Terms

The Board of Architectural Review shall consist of the following:

- A. **Composition.** Nine (9) members including seven (7) voting members and one (1) non-voting member appointed by the Town Council. One non-voting board member shall be ~~appointed from the Town Council and one non-voting member shall be appointed from the~~ a Planning Commission member appointed by the Planning Commission.
- B. **Terms.** ~~The term of office for members shall be three (3) years, except that~~ Appointment of voting members to serve on the Board of Architectural Review shall be as follows: In the year of an election, each newly elected or re-elected Council member, including the Mayor, shall may nominate one person to serve on the Board of Architectural Review. The Town Council shall vote to approve or disapprove the nomination selection. The term of each Board member shall correspond to the official tenure of office of the Council member who nominated them. The term of the Town Council member and Planning Commission member shall correspond to their official tenure of office.
- C. **Reappointments.** Members may be reappointed to serve consecutive terms.
- D. **Partial and Expired Terms.** Members appointed as a result of resignation or removal of a member shall serve for the remaining term of the member they are replacing. A member whose term has expired shall continue to serve until a successor is appointed.

2. Section 3.1.2 Application Filing Fees.

The Zoning Ordinance currently requires the County of Loudoun to pay full processing fees for zoning applications. At present, the County exempts the Town from similar fees. Also, because the Town must process building permits through the County, if the County charged a permit fee to Town projects the cost would typically far exceed any revenue obtained by the Town from the County for zoning fees. Therefore, this revision is proposed to specifically exempt some public entities from zoning fees but not other fees such as water and sewer connection fees.

The word “agency” was replaced with “applicant” upon recommendation of the Town Attorney.

3.1.2 Application Filing Fees

- A. Fee Required.** Applications must be accompanied by the fee that has been established by the Town Council.
- B. Fee Exemptions.** Fees are not required with applications initiated by the Town Council, Planning Commission, Board of Zoning Appeals, County of Loudoun, Loudoun County Public Schools or fire and rescue Companies. Application filing fees shall be required of any other public or private agency applicant ~~whether local, county, special district, regional, state or federal.~~
- C. No Refunds.** Unless otherwise expressly stated in this article, application fees are nonrefundable.

3. Sections 3.3.6, 3.4.6 and 8.2.2 Submittal Requirements.

Technological improvements have made it easier to process applications by sending documents in a word format and plans in a digital format via email. Currently, the Zoning Ordinance does not require applicants to submit documents in these formats. Also, the Council, Commission and the public are increasingly concerned about what proposed structures will look like when built because of the potential impact such structures could have on existing areas of Leesburg. This amendment is intended to make these items part of the required submission package for rezoning and special exception applications.

Per Commission member comments, the language “in a Word format” was revised to read “in a format specified by the Town” in Number 18. These lists have been coordinated with other Town requirements.

3.3.6.D Submittal Requirements [Rezoning]

- D. Concept Plan.** Twenty (20) copies, or other number as determined by the Land Development Official, of a concept plan, drawn to a scale of 1 inch = 100 feet, or a scale agreed to by the town, illustrating the following features:
 1. Insert vicinity map;
 2. Total area of property in square feet and acres;
 3. Tax map parcel or pin number of the subject property;
 4. Topography with 5’ contours.
 5. Scale, north arrow and date;
 6. Adjacent owner names, zoning and use;
 7. Vehicular and pedestrian points of access to the property;

8. Existing utility easements;
9. Proposed sewer and water connections;
10. Existing and proposed structures;
11. Required yards and height and proposed setbacks and height.
12. Environmental and historic features, including but not limited to sites or structures listed on the National Register of Historic Places or the Virginia Landmarks Register, or in the *Town Plan* Historic Resources element;
13. Structures within 200 feet of proposed structure or use;
14. Existing and proposed landscaping, screening and buffering;
15. Tree save areas, which may include individual trees and groupings;
~~and~~
16. Additional information as may be required for a Planned Development under Article 8 or as deemed appropriate by the Land Development Official to provide a comprehensible application given the rezoning proposal-;
17. Building Elevations for all new construction or major alterations to existing structures;
18. All submittal documents (e.g., Statement of Justification, proffers, etc.) shall be submitted in a Word format specified by the Town; and
19. All plans shall be submitted in a digital format specified by the Town.

3.4.6.E Submittal Requirements [Special Exceptions]

E. Special Exception Plat. Twenty (20) copies, or other number as determined by the Land Development Official, of a concept plan, drawn to a scale of 1 inch = 100 feet, or a scale agreed to by the town, containing the following information:

1. Boundaries of the entire property;
2. Total area of the property in square feet and acres;
3. Location of all existing and proposed structures, (including but not limited to lighting, signs and buildings);
4. Location and distance of all off-site structures within fifty (50) feet of the property, (Including but not limited to lighting, signs and buildings);
5. All required minimum yards and the distances of all existing and proposed structures to the lot lines;
6. Public right(s) of way, indicating names, route numbers, and width;
7. Proposed means of ingress and egress to the property from a public street;
8. Parking spaces, existing and/or proposed, indicating minimum distance from the nearest property line(s);

9. Where applicable, seating capacity; usable outdoor recreation area, emergency access, fencing, limits of clearing, landscaping and screening, outside lighting, loudspeakers and required and/or proposed improvements to public right(s) of way; ~~and~~
10. Existing zoning designation and use of subject and adjacent properties;
11. Building Elevations for all new construction or major alterations to existing structures;
12. All submittal documents shall also be submitted in a Word format specified by the Town; and
13. All plans shall be submitted in a digital format specified by the Town.

8.2.1.B Concept Plan - Planned Development Districts [Rezoning]

- B. Submittal Requirements.** ~~The Concept Plan applications shall include:~~ Twenty (20) copies, or other number as determined by the Land Development Official, of a concept plan, drawn to a scale of 1 inch = 100 feet, or a scale agreed to by the town, including a map of the property and land area within 200 feet showing the following features:

8.2.2.D Planned Development Districts [Rezoning]

- D. Submittal Requirements.** PD Rezoning Plan applications shall include all of the following information:

1. The proposed zoning classification of the planned development, the existing zoning of the subject property and the existing zoning of property adjacent to the subject property. . .
29. All submittal documents shall be submitted in a Word format specified by the Town.
30. All plans shall be submitted in a digital format specified by the Town.

<h4>4. Applicability of H-1 and H-2 District to Public Projects – Sections 7.5.2 and 7.6.3</h4>

The Town has applied the requirements of the H-1 District and the H-2 Overlay District to capital improvement projects that have been undertaken within the boundaries of these districts though at times there has been some confusion about when and to what extent the regulations govern governmental projects. In order to clarify that even public projects are, indeed, included within the design guidelines of the Old and Historic District and the H-2 Guidelines, as the case may be, staff recommends that appropriate sections of Articles 7.5 H-1, Old and Historic District and 7.6 H-2, Historic Corridor Architectural Control Overlay District be amended to state this applicability.

The word “located” was added in Line 7 upon recommendation of the Town Attorney.

7.5.2 Applicability [H-1 Old and Historic District]

These regulations shall apply to the H-1 Overlay District established by the Town Council in 1963 and to all areas or places designated by the Town Council as historic districts or landmarks as defined in Sec. 7.5.3 and all areas or places heretofore designated by the Town Council as historic districts or landmarks. Restrictions and requirements of this section shall be in addition to other restrictions and requirements provided in this Zoning Ordinance. The regulations of this section apply to all property, including any improvements and modifications to such property, located within the boundaries of the H-1 Overlay District.

7.6.3 Applicability [H-2, Historic Corridor Architectural Control Overlay District]

Unless otherwise expressly exempted, the regulations of this section shall apply to all lots and parcels and to all structures upon such lots or parcels within the boundaries of the H-2 Overlay District as defined in Sec. 7.6.2. If any part of a structure to be erected, altered or restored is located on a lot or parcel that is within these boundaries the entire structure shall be governed by this section, unless (1) the entire structure itself is located outside the H-2 Overlay District boundaries and (2) the structure will not be visible from any public right-of-way. Applicants may also proffer compliance with the H-2 Overlay District standards. The regulations of this section apply to all property, including any improvements and modifications to such property, within the boundaries of the H-2 Overlay District.

5. Increase in Sidewalk Width – Section 11.6.1.F

VDOT currently requires a minimum five-foot (5') width for all new sidewalks. This standard is also used by Loudoun County and other local jurisdictions. The current Town standard is four feet (4') which does not meet ADA standards unless the sidewalk is bumped out to five feet every 300 feet for a wheelchair passing area. Also, the Town Plan encourages better pedestrian access which is facilitated by wider sidewalks. The proposed amendment would widen new sidewalks to a minimum of five feet.

Commissioners raised the issue of how this affects Town projects in process like the Lowenbach Subdivision CIP. According to the Town Attorney, that project is grandfathered at the current four-foot width. This section would apply to Town CIP projects that are not grandfathered. Also, an issue was raised regarding how to treat situations where there already exists a four-foot sidewalk along a portion of a street where a CIP project will install new sidewalk farther down. Rather than require the wider sidewalk, which could appear aesthetically unpleasing, an option has been added to allow the narrower sidewalk to continue.

Sidewalks and Pedestrian Facilities. Sidewalks shall be provided on-site, as necessary to protect pedestrians and promote the safe and efficient movement of pedestrian and vehicular movement. Sidewalks shall have a minimum unobstructed width of **five (5)** ~~four (4)~~ feet. Sidewalks which are constructed to a six-foot width and directly abut the front of a parking or loading space may include one (1) foot of the sidewalk width when determining the length of the parking or loading space. In the case of a block containing a partial sidewalk, the width of the existing sidewalk may be continued for the remainder of the block length so long as ADA requirements are met.

6. Designation of H-1 Historic Districts and Landmarks – Section 7.5.10

The criteria for designating a historic district or landmark within the Town do not require that a property have historic structures or contain actual historic significance. In order to provide guidelines clearly intended to protect historic places and buildings within the H-1 District, the criteria should be amended as proposed to give better guidance to Council and the Board of Architectural Review when considering district and landmark designations.

The Town Attorney recommended two changes to this section necessary to treat private citizens and the B.A.R. similarly by removing extra requirements placed on the B.A.R.

7.5.10 Designation of Historic Districts and Landmarks

The H-1 Overlay District may be enlarged and new historic districts and individual landmarks may be established pursuant to Section 15.2-2306 of the Code of Virginia as amended, upon recommendation of the Board of Architectural Review and adoption by the Town Council.

- A. Preliminary Research.** The Board of Architectural Review shall undertake to establish and maintain a list of structures, sites and areas having ~~a special~~ historical, architectural or aesthetic interest or value.
- B. Recommendation of Historic Districts and Landmarks.** The Board of Architectural Review may recommend to the Town Council the initiation of a Zoning Ordinance amendment in accordance with Sections 15.2-2204 and 15.2-2286.6 of the Code of Virginia, 1950, as amended, to designate landmarks and historic districts from the list established under Sec. 7.5.10.A for preservation and protection. Upon making such a recommendation, the Board of Architectural Review shall submit a report giving the reasons for its recommendation.
 - 1. Criteria for Selection.** When applying for nomination as a Local Historic District or Local Historic Landmark, the applicant shall supply documents or other evidence showing that the property(s) or structure(s) under consideration meets one or more of the following criteria defining Local Historic Districts or Local Historic Landmarks: A

~~structure, group of structures, site or district may be recommended for designation as a landmark or landmark district if it:~~

- a. Its character, interest or value as part of the historic development, heritage, or cultural characteristics of the community, county, state or country; or ~~Has significant character, interest or value, as part of the town's development or heritage; or~~
- b. Its location as a site of a historically significant local, county, state or national event; or ~~Portrays the environment in an era of history characterized by a distinctive architectural style; or~~
- c. Its identification with a person or persons or entities who significantly contributed to the historic development of the community, county, state or country; or ~~Is the work of a designer whose individual work has significantly influenced the development of Leesburg; or~~
- d. Its embodiment of distinguishing characteristics of a historic architectural style valuable for the study of a period, type, method of construction, or use of materials; or ~~Contains elements of design, detail, materials or craftsmanship which represent a significant innovation; or~~
- e. Its identification as the work of a master builder, designer, architect or landscape architect whose individual work has influenced the historic development of the community, county, state or country; or ~~By being part of or related to a square, park or other distinctive area, should be developed or preserved according to a plan based on a historic, cultural or architectural motif; or~~
- f. Its embodiment of elements of design, detailing, materials or craftsmanship that render it significant to the architectural heritage of the community; or ~~Owing to its unique location or singular physical characteristic, represents an established and familiar visual feature of the neighborhood, community or town.~~
- g. Its character as a particularly fine or unique example of an historic utilitarian structure, including, but not limited to, farmhouses, gas stations or other commercial structures, with a high level of integrity or architectural significance; or
- h. It is listed in the National Register of Historic Places.

2. Boundaries. In the Board of Architectural Review's recommendation to the Town Council, historic districts or individual landmarks must be precisely described by legal boundaries.

32. Application for Designation. Designations may be initiated by resolution of the Town Council upon recommendation of the Board of Architectural Review or on the application of the owner(s) of the property to be designated or their authorized agents, or on the application of any **historic, civic or professional society or** organization with a recognized interest in historic preservation. When the application has not been made by the owner, the owner shall be given written notice of the designation under consideration.

7. 3.6.E.2 & 3.4.6.F.3 Traffic Impacts Analysis – New Threshold

An important part of both rezoning and special exception proposals is the need to analyze and fully understand the impacts of the proposed use on the surrounding transportation network. In order to ensure Council has adequate information regarding traffic impacts upon which to base its decision when considering a particular use, both Article 3.3 Zoning Map Amendments and 3.4 Special Exceptions require a traffic impact analysis as part of any application. However, there are occasions when the traffic study appears to be unnecessary because staff has adequate information or the application does not increase employees or customers. Section 3.3.7 Request for Waiver/Modifications of Submittal Requirements provides applicants with an opportunity to ask the Land Development Director for a waiver but there are no specific criteria for granting such a waiver. To better inform applicants and town officials regarding when a waiver may be appropriate the proposed amendments have been compiled in consultation with Mr. James Chandler, Senior Planner – Transportation, and Mr. Calvin Grow, Transportation Engineer:

Commissioners desired the waiver criteria be strengthened which has been done by the addition of proof that the number of employees or customers using the site will not be increased in a particular case.

3.3.6.E.2 [Traffic Impact Analysis – Rezoning]

E. Statement of Justification. Twenty (20) copies, or other number as determined by the Land Development Official, of a written statement of justification describing:

1. The nature of the request and uses proposed;
2. **Traffic Impact Analysis.** Traffic impacts, including the maximum expected trip generation and the distribution of such trips by mode and the time of day based on current Institute of Transportation Engineers (ITE) Manual, internal road network, and connection into the existing transportation network. A traffic study, as described in Article 7 of the

Design and Construction Standards Manual, will be required for all applications where the proposed land use ~~that contain:~~

- a. ~~or is are~~ adjacent to a roads that currently carries ~~carry or is~~ are proposed to carry more than 500 vehicle trips per day (VPD); ~~or~~
- b. contains a road proposed to carry more than 500 vehicle trips per day (VPD); or
- c. is adjacent to a road that currently or is proposed to carry 100 or more peak hour vehicle trips per day; or
- d. if the traffic study for the proposed activity is more than one (1) year old.
- e. **Waiver Provision.** This requirement may be waived at the discretion of the Land Development Official at the applicant's written request filed with the initial application. Any such waiver shall be based upon a finding that such analysis is unnecessary due to the existence of previous studies and analyses which adequately cover the extent of the proposed development and its traffic impact, or if applicant supplies adequate proof that the proposed use does not increase the number of employees or customers using the site, or if otherwise justified by the applicant. The Land Development Official shall set forth in writing the reasons for the determination. A traffic study, as described in Article 7 of the Design and Construction Standards Manual, will be required for all applications ~~that contain or are adjacent to roads that carry or are proposed to carry more than 500 vehicle trips per day (VPD);~~

3. Impacts on adjacent uses and measures proposed to mitigate such impacts;
4. Area calculations for each use;
5. Dwelling unit count and mix;
6. Relationship of the proposal to the *Town Plan*, ~~including but not limited to the Land Use Compatibility policies; and~~
7. Any proposed variations or modifications of submittal requirements

3.4.6. F.3 (Special Exception)

F. Written Statement describing the proposed use and providing the following information:

1. Type of operation;
2. Hours of operation;
3. **Traffic Impact Analysis.** Traffic impacts, including the maximum expected trip generation and the distribution of such trips by mode and the time of day based on current Institute of Transportation Engineers (ITE) Manual, internal road network, and connection into the existing transportation network. A traffic study, as described in Article 7 of the Design and Construction Standards Manual, will be required for all applications where the proposed land use ~~that contain:~~
 - a. ~~or is are~~ adjacent to a roads that currently carries ~~carry or is~~ are proposed to carry more than 500 vehicle trips per day (VPD); ~~or~~

- b. contains a road proposed to carry more than 500 vehicle trips per day (VPD); or
- c. is adjacent to a road that currently or is proposed to carry 100 or more peak hour vehicle trips per day; or
- d. if the traffic study for the proposed activity is more than one (1) year old.
- e. **Waiver Provision.** This requirement may be waived at the discretion of the Land Development Official at the applicant's written request filed with the initial application. Any such waiver shall be based upon a finding that such analysis is unnecessary due to the existence of previous studies and analyses which adequately cover the extent of the proposed development and its traffic impact, or if applicant supplies adequate proof that the proposed use does not increase the number of employees or customers using the site or if otherwise justified by the applicant. The Land Development Official shall set forth in writing the reasons for the determination. ~~A traffic study, as described in Article 7 of the Design and Construction Standards Manual, will be required for all applications that contain or are adjacent to roads that carry or are proposed to carry more than 500 vehicle trips per day (VPD);~~

4. Impacts on adjacent uses and measures proposed to mitigate such impacts.

8. Performance Standards for Service Stations – Section 9.3.21

Common discussion topics when the Council entertains proposed automobile service stations are the canopy lights and the architecture of the building and their impact on adjacent properties. The Zoning Ordinance contains some standards for service stations but those standards do not directly address these issues. Staff recommends the following amendments in order to give Council and the Commission more guidance when addressing these issues.

Based on Commissioner concerns regarding the ability of tractor trailers to pass under canopies, the recommended vertical clearance provided under the canopy has been increased from 13'9" to 14'0" based on AASHTO design standards. A corresponding increase has been made in the height of the canopy. "Garage doors" has also been added to the architectural integration section for clarification purposes.

9.3.21 Service Stations

- A. Service stations shall not include ancillary uses such as vehicular or tool rental (including moving vans) and shall be limited to the servicing of vehicles and non-automotive accessory retail sales of snacks, convenience foods, and similar products.
- B. Service stations shall not include an outdoor storage area for more than three (3) abandoned, wrecked or inoperable vehicles on the site for more than one week, subject to the limitation that there shall be no dismantling, wrecking, or sale of said vehicles or part(s) thereof.

- C. Outside sales and display areas shall be shown on the plan to be reviewed by the Planning Commission and Town Council.
- D. The parking of commercial vehicles shall be prohibited on the site of a service station. This provision shall not be interpreted as prohibiting the parking of vehicles actively engaged in delivering fuel or other supplies to the service station.
- E. No permit shall be issued for a service station if the entrance or exit for vehicles is:
 1. In the same block front within 200 feet of any school, public playground, hospital, church, or public library; or
 2. If such entrance or exit is located within 20 feet of an “R” District within the same block front.
 3. No permit shall be issued for a service station if any part of any structure, including underground gasoline tanks or service aisles, is located within 100 feet of any building or grounds of a school, public playground, hospital, church, or public library or any “R” District.
- F. Canopy Height as measured from the finished grade to the lowest point on the canopy fascia, should not exceed 14’0”13’-9”. The overall height of canopies shall not exceed 17’3” feet.
- G. Canopy lighting shall be fully recessed in the ceiling of the canopy.
- H. All sides of a building should express consistent architectural detail and character. All site walls, screen walls, garage doors and canopies should be architecturally integrated with the building by using similar materials, color and detailing.

9. Outdoor Lighting – Section 12.11

Outdoor lighting standards are contained within the DCSM but they do not address certain issues such as maximum pole height and shielding of light fixtures. The following amendments are proposed to address these common issues by specific language and through illustrations to better inform applicants about what is intended by the ordinance.

The Commission asked about the impact of this section on lighting recreational facilities such as football fields. The section does not limit pole height in those cases. Section 9.3.18 Recreational Facilities requires such facilities to have a lighting plan that verifies “all lighting fixtures are directed onto the site, and will not impact adjacent properties or roadways.”

Sec. 12.11 Outdoor Lighting

All development shall comply with the outdoor lighting standards of the Design and Construction Standards Manual, including the standards of Article 7 and the following provisions:

- A.** Light poles in all parking lot areas shall not exceed a maximum height of 25 feet including the base.
- B.** A lighting plan shall be provided that indicates all outdoor lighting fixtures exclusive of street lights will not have a source of illumination that is visible beyond the site or cause illumination of adjacent properties in excess of 0.5 foot-candles, as measured at the site boundary.
- C.** All outdoor lighting fixtures shall be designed, shielded, aimed, located and maintained to shield adjacent properties and to not produce glare onto adjacent properties or roadways. Parking lot light fixtures and all light fixtures on buildings shall be full cut-off fixtures.

10. Stacking Spaces for Bank Drive-Through Windows – Section 11.8.3

The Zoning Ordinance requires eight (8) stacking spaces for each drive-through window for a financial institution. This stacking standard is the most stringent in the region and is a common source of complaint by applicants. The majority of local jurisdictions surveyed require five stacking spaces. Winchester, Virginia had the lowest requirement at four stacking spaces per window. On the other hand, the stacking requirements are not specific regarding the screening of such stacking aisles contrary to many local jurisdiction standards. Mr. Lee Phillips, the Chief of Current Planning recommends the following amendments to address both of these issues:

The Commission expressed concern over the proposed reduction in the number of spaces for the first window which usually handles the most drive-up traffic. Staff has restored the eight-space requirement for the first window but has reduced the number required for each additional window to two spaces. This should provide adequate stacking spaces for the first window and bring the Town closer to the general standard used for the total spaces required for multiple windows. Note that the industry standard for fast-food restaurants is higher based on more intensive use at peak hours compared to financial institutions.

11.8.3 Financial Institution Drive-up Windows

A minimum of ~~eight (8)~~ ~~four (4)~~ stacking spaces shall be required for each teller, customer window or automatic teller machines (ATM's) at a financial institutions having one drive-up window and automatic teller machines (ATMs) and ~~two (2)~~ ~~four (4)~~ stacking spaces for each additional window. Such stacking lanes shall be used solely for drive-through window vehicle stacking and shall not conflict or extend into vehicle parking areas, drive aisles or loading spaces and shall be screened to avoid being a dominant visual feature of the site when viewed from adjacent streets.

11. Revising Landscape Plan Scale – Section 12.2.3.A

Landscape plans must currently be submitted at a scale of one inch equals 50 feet. As a practical matter, this makes such plans difficult to read and interpret. Therefore, staff recommends the scale be modified to require landscape plans at a new scale of one inch equals 30 feet.

12.2.3 Contents of Landscape Plan

A landscape architect, landscape designer or landscape contractor shall prepare every landscape plan required by this article. All landscape plans shall contain the following information:

A. Scale. Plans shall be drawn to a scale of not less than 30 ~~50~~ feet to the inch on sheets not exceeding 24 by 36 inches.

12. Neon Signs and B.A.R. Review – Section 15.5.14

The B.A.R. has the responsibility for reviewing neon signs outside of the H-1 Overlay District and the H-2 District, even though neon signs are otherwise prohibited in town. There are no standards for the B.A.R. to consider when making their determinations and the Board has expressed a desire to be relieved of the responsibility to judge neon signs located outside of the historic districts because of the lack of criteria and the fact that such signs are otherwise outside of their purview other than the brief reference in Section 15.5.14 Neon Signs. The proposed amendments would mean in effect that new neon signs would not be permitted except for certain “open for business” signs allowed under Section 15.4.8. which also allows “open/hours of operation” signs located in the window of a business not to exceed two square feet in area.

The words “hours of operation” have been deleted from the amendment given the impracticality of fitting such a description in neon on a two square foot sign.

Sec. 15.5 Prohibited Signs

The following signs are expressly prohibited unless specifically stated otherwise. . .

15.5.14 Neon Signs

Neon signs except as approved by the Board of Architectural Review and for open hours of operation signs located outside the H-1 District that meet the requirements of Section 15.4.8.

13. Architectural Design/Historic Preservation in Planned Development Districts and Rezonings Generally

Planned Development District and general rezoning regulations do not specifically address historic preservation of existing sites within a proposed development, nor do they give an applicant any idea of what could be required in the way of necessary analysis of the site to determine if there are historic features worthy of protection. The amendments below seek to provide this instruction based on the recommendations of Ms. Annie McDonald, the Preservation Planner. A new provision is proposed under Section 8.2.2.F. to clarify that archeological survey must be done as part of any new planned development and a new section for other rezonings in Article 3. These sections are based on Virginia Code Section 15.2-2283 Purposes of zoning ordinances “to protect against destruction of or encroachment upon historic areas.”

The Commission asked for clarification on the process for obtaining SHPO survey. The process is set out by the Virginia Department of Historic Resources and the survey must follow guidelines provided by that department (and referenced in the amendment).

3.3.6.K. Archeological/Historic Information. Applicant shall provide the following information prior to approval to determine if there are historic and/or archeological resources of local, state or national significance that are worthy of protection on the proposed site:

- a.** Structures, any portion of which was constructed prior to 1940, located on any portion of land designated within the Planned Development District, require an Intensive Level architectural survey conducted in accordance with State Historic Preservation Office (SHPO) survey standards by an individual or firm that meets the professional qualification standards set forth in 36 CFR 61, Appendix A to evaluate the structure and the site for its local, state, or national significance as an individual resource or as a district using:
 1. The National Register Criteria for Evaluation listed in 36 CFR 60.4; and
 2. The Criteria for Designation listed under Section 7.5.10.B.1 of the Zoning Ordinance.
- b.** A letter from the State Historic Preservation Office concurring with the evaluation listed in a. above.
- c.** A Phase I archeological survey shall be conducted in accordance with SHPO standards by an individual or firm that meets the professional qualification standards set forth in 36 CFR 61, Appendix A.

8.2.2.F. PD Rezoning Plan Approval Criteria.

Applicant shall provide the following information prior to approval to determine if there are historic and/or archeological resources of local, state or national significance that are worthy of protection on the proposed site:

- a.** Structures, any portion of which was constructed prior to 1940, located on any portion of land designated within the Planned Development District, require an Intensive Level architectural survey conducted in accordance with State Historic Preservation Office (SHPO) survey standards by an individual or firm that meets the professional qualification standards set forth in 36 CFR 61, Appendix A to evaluate the structure and the site for its local, state, or national significance as an individual resource or as a district using:
 1. The National Register Criteria for Evaluation listed in 36 CFR 60.4; and
 2. The Criteria for Designation listed under Section 7.5.10.B.1 of the Zoning Ordinance.
- b.** A letter from the State Historic Preservation Office concurring with the evaluation listed in a. above.
- c.** For Planned Development Districts a Phase I archeological survey shall be conducted in accordance with SHPO standards by an individual or firm that meets the professional qualification standards set forth in 36 CFR 61, Appendix A.

14. Elimination of Special E. Market Street Setbacks – Section 10.4.5.E.1.a. and b.

Certain extraordinary setbacks exist along E. Market Street that require structures to be placed farther back from the road than would otherwise be the case. For example, the B-2 District covers all of the E. Market Street frontage from the intersection of Loudoun Street to the intersection with Fort Evans Road. The normal B-2 front yard setback is 20 feet per Section 6.4.3.D. Along E. Market Street this setback usually increases to over 40 feet because of Section 10.4.5.E.1.a, which requires buildings to be set back at least 70 feet from the centerline of the right-of-way from Loudoun Street to Catoctin Circle, or over 40 feet due to Section 4.5.E.1.b., which requires buildings to be set back at least 80 feet from Catoctin Circle to Fort Evans Road. These increased setbacks were created when the Town Plan called for suburban-style development in the Market Street area outside of the Historic District. The 2005 Town Plan envisions a more urban development pattern for the area, characterized by buildings built close to the road with an emphasis on pedestrian access. The proposed amendments seek to remove this conflicting building restriction line:

10.4.5.E. Additional Setback Requirements from Certain Streets. In addition to those yard requirements established for zoning districts, the building setback requirements established herein for certain public streets within the Town of Leesburg shall also be applicable. In case of conflict with other provisions of this Zoning Ordinance, the greater setback requirement shall prevail.

~~1. East Market Street.~~ ~~To implement the recommendations of the East Market Street Design Study and the Town Plan, the following setbacks shall be required:~~

- ~~a. East Market Street, from the intersection with East Loudoun Street to the intersection with Catoctin Circle: 70 feet from the centerline of the right-of-way.~~
- ~~b. East Market Street, from the intersection with Catoctin Circle to the intersection with Fort Evans Road: 80 feet from the centerline of the right-of-way.~~
- ~~c. East Market Street, from the intersection with Fort Evans Road to the intersection with the Route 7/15 Bypass: 100 feet from the centerline of the right-of-way.~~

2. Other Increased Setbacks.

- 1a.** Route 7, East of the Route 7/15 Bypass: 100 feet from the right-of-way line.
- 2b.** Route 15, South of the Route 7/15 Bypass: 100 feet from the right-of-way line.

3e. West Market Street, north side only, between Ayr Street and the western corporate limits: 100 feet from the centerline of the right-of-way.

4d. Dulles Greenway Private Toll Road: 120 feet from the right-of-way line.

53. Increased Setbacks Based On Road Classification. No building shall

15. Revised District Descriptions.

The existing land use districts in the Zoning Ordinance were created under the 1997 Town Plan and the description at the beginning of each district describes the district under the intent of that plan. With the adoption of the 2005 Town Plan these descriptions have become outdated and have been amended as proposed below to describe how these districts fit within the new Town Plan, and to avoid confusion on the part of ordinance users. Note that the Town Plan does not include any area for industrial uses. Also, the Town Plan is not mentioned in the District description for the following Districts: R-16, B-2, PRC, PRN, PEC, GC, MC, MA, A-1. No amendments are proposed for those districts descriptions.

Sec. 5.1 R-E, Single-Family Residential Estate District

Sec. 5.1.1 Description

The R-E, Single Family Residential Estate District is primarily intended to accommodate single-family detached dwelling units at a density of no more than one (1) dwelling unit per three (3) acres. ~~The district is appropriate for application in areas designated in the Town Plan for “Low Residential” development.~~ The low-density, large lot development patterns promoted by the R-E District are intended to help preserve the character of existing estate residential areas and help ensure conservation of environmental features, such as woodlands, stream corridors, steep slopes and ridge lines. The R-E District is also intended to serve as an interim or “holding” zoning designation for newly annexed lands, pending the availability of urban services and/or the completion of town land use and zoning studies leading to other recommended zoning classifications.

Sec. 5.4 R-4, Single-Family Residential District

Sec. 5.4.1 Description

The R-4, Single-Family Residential District is primarily intended to accommodate single-family detached dwelling units at densities of no more than four (4) dwelling units per acre. The district is generally appropriate for application in areas designated in the Town Plan for “Low Density Residential” ~~or “Medium Density Residential”~~ development. The **low** ~~moderate~~ density development patterns promoted by the R-4 District are intended to promote the efficient use of land by encouraging the provision and conservation of open space through cluster development. Cluster development allows a reduction in lot area, yard (setback) and bulk requirements, provided maximum density allowed by the underlying zoning district is not exceeded.

Residential cluster developments must preserve the integrity of their sites by protecting and promoting the preservation of steep slopes, stream valleys, desirable vegetation, and other natural features.

Sec. 5.6 R-HD, Historic Residential District

Sec. 5.6.1 Description

The R-HD, Historic Residential District is primarily intended to accommodate residential development that is compatible with and preserves the character of the Old and Historic (H-1 Overlay) District. The district is generally appropriate for application in areas designated as **historic residential areas** in the ~~for~~ “**Infill**” **“Downtown”** land use category ~~development~~ in the Town Plan.

Sec. 5.7 R-8, Medium-Density Attached Residential District

Sec. 5.7.1 Description

The R-8, Medium-Density Attached Residential District is primarily intended to accommodate single-family attached, single-family detached and duplex development. The district is generally appropriate for application in areas designated in the Town Plan **under the** “Medium Density Residential” and ~~“High Density Residential”~~ **development** **land use category.**

Sec. 5.9 R-22, Multi-Family Residential District

Sec. 5.9.1 Description

The R-22, Multi-Family Residential District is primarily intended to accommodate multi-family and other forms of residential development. ~~The district is generally appropriate for application in areas designated in the Town Plan for “Downtown”, “Regional Office” along Route 7 and “Community Commercial” at Potomac Station. “High Density Residential” development.~~

Sec. 6.1 O-1, General Office District

Sec. 6.1.1 Description

The O-1, General Office District is established to provide locations where predominately office uses may be located in a low-intensity manner as a transitional land use between residential and higher intensity uses. The district is generally appropriate for ~~application in any area designated in the Town Plan for “Commercial and Employment” “Community Office” development or in situations in which~~ office development **including** ~~allows~~ incidental support services and retail uses, provided they are intended solely to serve employees of the permitted uses.

Sec. 6.3 B-1, Community (Downtown) Business District

Sec. 6.3.1 Description

The B-1, Community (Downtown) Business District is established in recognition of the downtown **mixed-use core** area as the center of Leesburg's employment, tourism and specialty commercial activity. ~~The district is established to implement the "Historic Commercial District" land use policies of the Town Plan by accommodating~~ **The** small to medium size, pedestrian-oriented retail uses that attract shoppers and tourists from throughout the region **are considered primary uses.** Residential uses- typically above the ground floor of retail uses - are also considered primary uses within the B-1 District. Some office, financial and personal service uses are allowed as secondary uses in the B-1 District. It is intended that ~~the downtown~~ **this** area remain a viable mixed-use core and that the goals of the H-1 Overlay District be promoted and enhanced throughout the B-1 District. The district is generally appropriate for application in the downtown **mixed-use** core area; designated in the Town Plan for ~~"Infill"~~ **"Downtown"** development.

Sec. 6.5 B-3, Community Retail/Commercial District

Sec. 6.5.1 Description

The B-3, Community Retail/Commercial District is ~~established to implement the "Community Center" policies of the Town Plan.~~ It is intended primarily to accommodate moderate-size, retail and service-oriented land uses that serve Leesburg area residents. Uses within the B-3 District typically draw from a trade area of 3 to 5 miles. The district is generally appropriate for application in areas designated in the Town Plan for "Community Commercial" development.

Sec. 6.6 B-4, Mixed-Use Business District

Sec. 6.6.1 Description

The B-4, Mixed-Use Business District is ~~established to implement the "Business II" policies of the Town Plan.~~ It is **primarily** intended to accommodate a broad range of uses, including office, ~~low-intensity manufacturing, low-intensity warehousing and~~ residential uses and retail sales uses that serve a regional trade area. Secondary uses intended to serve employees and occupants of permitted office and employment uses (e.g., conference facilities, hotels and ancillary retail uses) may also be allowed. The district is generally appropriate for **the optional use for Regional Office** application in areas **as** designated in the Town Plan for ~~"Business II (Mixed)"~~ development.

16. Districts Eliminated Because No Longer In Town Plan

Because the I-2 and M-1 Districts are not compatible with any land use area mapped in the Town Plan, and due to the fact that there are no parcels of land in Leesburg that are zoned either I-2 or M-1, the amendments would delete these districts from the Zoning Ordinance to be replaced by districts tailored to fulfill the Town Plan land use goals and objectives. The O-2 District would also be deleted because its intent to create campus-style office

parks is not compatible with the Town Plan, and there are no parcels currently zoned O-2. This also requires that Section 4.1 Establishment of Zoning Districts, Section 9.2 Use Table and Section 10.2 Nonresidential Zoning Districts be amended to reflect the elimination of these three districts.

Sec. 6.2. O-2, Office Park District

Sec. 6.2.1 Description

The O-2, Office Park District is established to implement the “Business I” “Regional Office” policies of the Town Plan. It is intended primarily to accommodate office parks, corporate office/headquarters and low-intensity research and development uses in large, campus-like settings. Secondary uses intended to serve employees and occupants of permitted office and employment uses (e.g., conference facilities, hotels and ancillary retail uses) may also be allowed. The district is appropriate for applications in areas designated in the Town Plan for “Business I (“Regional Office)” development.

Sec. 6.2.2 Use Regulations

Uses are allowed in the O-2 District in accordance with the following table. A “P” in the second column of the table indicates that the use is permitted by-right, subject to compliance with all applicable standards of this Zoning Ordinance. An “S” in the second column of the table indicates that the use may be allowed if reviewed and approved in accordance with the Special Exception procedures of **Error! Reference source not found.** For a summary of uses permitted in all zoning districts, see the Use Table in **Error! Reference source not found.**

O-2 Uses			
Use		Use Standards	Definition
Commercial Uses			
Bank with drive-in facility	S		Sec. Error! Reference source not found.
Bank without drive-in facility	P		Sec. Error! Reference source not found.
Car wash	S	Sec. Error! Reference source not found.	Sec. 18.1.26
Child-care center	S		Sec. Error! Reference source not found.
Conference center	P		Sec. Error! Reference source not found.
Eating establishment without drive-in facility	S	Sec. Error! Reference source not found.	Sec. Error! Reference source not found.
Eating establishment with drive-in facility	P		Sec. 18.1.53
Electronic Data Storage Center	P		Sec. Error! Reference source not found.
Emergency care facility	S		Sec. Error! Reference source not found.
Heliport	S		Sec. Error! Reference source not found.
Hotel/motel	S		Sec. Error! Reference source not found.
Office	P		Sec. Error! Reference source not found.
Parking structure, private	S	Sec. 9.3.15	Sec. Error! Reference source not found.
Recreation facility	S	Sec. Error! Reference source not found.	Sec. Error! Reference source not found.
School, special instruction	S	Sec. Error! Reference source not found.	Sec. Error! Reference source not found.
Service station	S	Sec. 0	Sec. Error! Reference source not found.
Services, personal	S	Sec. Error! Reference source not found.	Sec. Error! Reference source not found.

O-2 Uses		
Use	Use Standards	Definition
Theatre, indoor	S	Sec. Error! Reference source not found.
Industrial, Manufacturing and Warehousing Uses		
Manufacturing and assembly	S	Sec. Error! Reference source not found.
Research and development	P	Sec. Error! Reference source not found.
Institutional and Community Service Uses		
Commuter Parking Lot	S	Sec. Error! Reference source not found.
Fire and/or rescue facility	P	Sec. Error! Reference source not found.
Park, public	P	
Recreation facility	P	Sec. Error! Reference source not found.
School, general education	S	Sec. Error! Reference source not found.
School, public	S	Sec. Error! Reference source not found.
School, technical	S	Sec. Error! Reference source not found.
Utility Uses		
Public utility, minor	P	Sec. Error! Reference source not found.
		Sec. 0

Sec. 6.2.3 Density/Intensity and Dimensional Standards

All development in the O-2 District shall be subject to the following standards (See also Article 10):

O-2 District Standards	
A. Minimum Lot Area (square feet)	
— All Development	40,000
B. Minimum Lot Width (feet)	
— All Development	200
C. Maximum Floor Area Ratio	
	1.0
D. Minimum Yards/Setbacks (feet)	
— Front	50
— Side	50
— Rear	50
E. Minimum Common Open Space (percent of site area)	
	20
F. Maximum Building Height	
— All Development	65
G. Minimum Zoning District	Area (acres)
	5

Sec. 6.2.4 Additional Standards

- **A. Mix of Uses.** The following use mix standards are established in order to promote the intended multi-use character of the O-2 District.

Use Type	Min. Gross Floor Area (pct of development)	Max. Gross Floor Area (pct of development)
Office	50	90
Industrial, Manufacturing, Warehouse	0	30
Commercial[1]	0	20 or 20 acres whichever

Use Type	Min. Gross Floor Area (pct of development)	Max. Gross Floor Area (pct of development)
		is less
Institutional, Community Service and Utilities	0	0

[1] Commercial uses must support or supplement existing or concurrently developing employment uses within 1,500 feet of the development site. Such uses may include, but are not necessarily limited to, lodging, conference facilities and retail/retail service uses that serve employees of and visitors to the primary employment uses of the site.

Sec. 6.8 I-2, Industrial/Warehouse/Office District

6.8.1 Description

The I-2, Industrial/Warehouse/Office District is established to implement the “Business III” policies of the Town Plan. It is primarily intended to accommodate low-intensity manufacturing, warehousing, distribution and “back-office” uses. Retail and service uses intended to service employees and occupants of primary permitted uses may also be allowed. The district is generally appropriate for application in areas designated in the Town Plan for “Business III (Employment)” development.

6.8.2 Use Regulations

Uses are allowed in the I-2 District in accordance with the following table. A “P” in the second column of the table indicates that the use is permitted by right, subject to compliance with all applicable standards of this Zoning Ordinance. An “S” in the second column of the table indicates that the use may be allowed if reviewed and approved in accordance with the Special Exception procedures of **Error! Reference source not found.** For a summary of uses permitted in all zoning districts, see the Use Table in **Error! Reference source not found.**

I-2 Uses			
Use		Use Standards	Definition
Agricultural Uses			
Farming	P		Sec. Error! Reference source not found.
Commercial Uses			
Child-care center	S		Sec. Error! Reference source not found.
Eating establishment without drive-in facility	S	Sec. Error! Reference source not found.	Sec. Error! Reference source not found.
Electric and/or plumbing supply	P	Sec. 9.3.8	
Electronic Data Storage Center	P		Sec. Error! Reference source not found.
Heliport	S		Sec. Error! Reference source not found.
Hotel/motel	S		Sec. Error! Reference source not found.
Office	P		Sec. Error! Reference source not found.
Outdoor storage	S		Sec. Error! Reference source not found.
Outdoor storage, Vehicles	S		
Parking structure, private	S		Sec. Error! Reference source not found.
Printing and/or publication	P		Sec. Error! Reference source not found.
Service station	S	Sec. 0	Sec. Error! Reference source not found.
Services, personal	S	Sec. Error! Reference source not found.	Sec. Error! Reference source not found.

I-2 Uses		
Use	Use Standards	Definition
Industrial, Manufacturing and Warehousing Uses		
Distribution Facility	S	Sec. Error! Reference source not found.
Manufacturing and assembly	P	Sec. Error! Reference source not found.
Mini-warehouse facility	S	Sec. Error! Reference source not found.
Research and development	P	Sec. Error! Reference source not found.
Warehouse	P	Sec. Error! Reference source not found.
Institutional and Community Service Uses		
Commuter Parking Lot	P	Sec. Error! Reference source not found.
Fire and/or rescue facility	P	Sec. Error! Reference source not found.
Park, public	P	
School, technical	S	Sec. Error! Reference source not found.
Utility Uses		
Public utility, major	S	Sec. Error! Reference source not found.
Public utility, minor	P	Sec. Error! Reference source not found.

6.8.3 Density/Intensity and Dimensional Standards

All development in the I-2 District shall be subject to the following standards (See also Article 10):

I-2 District Standards	
A. Minimum Lot Area (square feet)	
— All Development	80,000
B. Minimum Lot Width (feet)	
— All Development	200
C. Maximum Floor Area Ratio	
	0.5
D. Minimum Yards/Setbacks (feet)	
— Front	50
— Side	50
— Rear	50
E. Maximum Building Height (feet)	
— All Development	50
F. Minimum Zoning District Area (acres)	
	5

6.8.4 Additional Standards

A. Mix of Uses. The following use mix standards are established in order to promote the intended use mix of the I-2 District.

Use Type	Min. Gross Floor Area (pct of development)	Max. Gross Floor Area (pct of development)
Office	65	85
Industrial, Manufacturing, Warehouse		
Commercial[1]	0	10 or 10 acres whichever is less

Use Type	Min. Gross Floor Area (pct of development)	Max. Gross Floor Area (pct of development)
Institutional, Community Service and Utilities	0	0

[1] Commercial uses must support or supplement existing or concurrently developing employment uses within 1,500 feet of the development site. Such uses may include, but are not limited to, lodging, conference facilities and retail/retail service uses that serve employees of and visitors to the primary employment uses of the site.

Sec. 6.9 M-1, Basic Industry District

6.9.1 Description

The M-1, Basic Industry District is established to implement the “Industrial” land use policies of the Town Plan. It is intended primarily to accommodate industrial processing, extractive and other industrial type land uses that are typically incompatible with residential or commercial development. The district is appropriate for application in areas designated in the Town Plan for “Industrial” development.

6.9.2 Use Regulations

Uses are allowed in the M-1 District in accordance with the following table. A “P” in the second column of the table indicates that the use is permitted by right, subject to compliance with all applicable standards of this Zoning Ordinance. An “S” in the second column of the table indicates that the use may be allowed if reviewed and approved in accordance with the Special Exception procedures of **Error! Reference source not found.** For a summary of uses permitted in all districts, see the Use Table in **Error! Reference source not found.**

M-1 Uses			
Use		Use Standards	Definition
Commercial Uses			
Outdoor Storage	P		Sec. Error! Reference source not found.
Outdoor storage, vehicles	P		
Vehicle and/or equipment service facility	P	Sec. Error! Reference source not found.	Sec. Error! Reference source not found.
Industrial, Manufacturing and Warehousing Uses			
Basic Industry	P		Sec. Error! Reference source not found.
Distribution Facility	S		Sec. Error! Reference source not found.
Extraction of Earth Products	P		
Manufacturing and assembly	P		Sec. Error! Reference source not found.
Mini-warehouse facility	P	Sec. Error! Reference source not found.	Sec. Error! Reference source not found.
Research and development	P	Sec. Error! Reference source not found.	Sec. Error! Reference source not found.
Warehouse	P		Sec. Error! Reference source not found.
Institutional and Community Service Uses			
Commuter Parking Lot	P		Sec. 18.1.31
Fire and/or rescue facility	P		Sec. Error! Reference source not found.
Utility Uses			
Public utility, major	S	Sec. Error! Reference source not found.	Sec. 18.1.145
Public utility, minor	P	Sec. Error! Reference source not found.	Sec. 0

6.9.3 Density/Intensity and Dimensional Standards

All development in the M-1 District shall be subject to the following standards (See also Article 10):

M-1 District Standards	
A. Minimum Lot Area (square feet)	
All Development	80,000
B. Minimum Lot Width (feet)	
All Development	200
C. Minimum Yards/Setbacks (feet)	
Front	50
Side	50
Rear	50
E. Maximum Building Height (feet)	
All Development	35
F. Minimum Zoning District Area (acres)	5

17. Commission Permits Procedure

Commission permits are dealt with in the ordinance but the specific submittal requirements were not contained in any checklist or ordinance. This proposed amendment seeks to eliminate this discrepancy. The proposed requirements are based on actual commission permits that have been reviewed by the Commission.

Sec 3.12 Commission Permits (Public Project Review)

3.12.1 Applicability

In accordance with Section 15.2-2232 of the Code of Virginia, 1950, as amended, Unless otherwise expressly exempted in accordance with Sec. 3.12.2, no street or connection to an existing street; park; public area; public building; public structure, public utility facility or public service corporation shall be constructed, established or authorized until the general location or approximate location, character and extent of such project has been approved by the Planning Commission as being substantially in accord with the adopted Comprehensive Plan.

3.12.3. Initiation of Application

An application for a Commission Permit shall be filed with the Land Development Official . . .

3.12.4. Application Filing

Required application forms, completed and signed by the applicant and property owner, shall accompany each application.

- A. Upon receipt of an application, the Land Development Official shall acknowledge acceptance or rejection of the application in writing within ten (10) business days from the date of submittal.
- B. Upon acceptance of a completed application, the application shall be forwarded to all appropriate reviewing agencies for comment. Once the Land Development Official has received all comments, the comments shall be forwarded to the applicant for consideration and resolution.

3.12.5. Submittal Requirements

~~All Commission Permit applications shall include such information and be in the form established by the Planning Commission. The Planning Commission shall establish a checklist of required information and make such checklist available to the public.~~ A commission permit application shall be accompanied by the following items:

A. Application. An application on a form provided by the town, completed and signed by the applicant and owner(s) of the property. The applicant shall keep this information current at all times during processing of the application.

B. Plat. Twenty (20) copies, or other number as determined by the Land Development Official, of a concept plan, drawn to a minimum scale of 1 inch = 100 feet containing the following information:

1. Boundaries of the entire property;
2. Total area of the property in square feet and acres;
3. Location of all existing and proposed structures, (including but not limited to lighting, signs and buildings);
4. Location and distance of all off-site structures within fifty (50) feet of the property, (Including but not limited to lighting, signs and buildings);
5. All required minimum yards and the distances of all existing and proposed structures to the lot lines;
6. Public right(s) of way, indicating names, route numbers, and width;
7. Proposed means of ingress and egress to the property from a public street;
8. Where applicable, Parking spaces, emergency access, fencing, limits of clearing, landscaping and screening, outside lighting, loudspeakers and required and/or proposed improvements to public right(s) of way;
9. Existing zoning designation and use of subject and adjacent properties;
10. Site location map;
11. All submittal documents shall be submitted in a Word format; and

12. All plans shall be submitted in a digital format specified by the Town.

C. Written statement. A written narrative describing the proposed use and providing the following information:

1. Type of operation;
2. Hours of operation;
3. Impacts on adjacent uses and measures proposed to mitigate such impacts.

D. Waivers/Modifications of Submittal Requirements. Any submittal requirements that accompany the application may be waived by the Land Development Official at the applicant's written request filed with the initial application. The applicant must clearly indicate by section and paragraph in the application or in a letter attached to the application, which waiver or modification is requested and provide a justification for each modification/waiver requested. To grant a waiver or modification the Land Development Official must determine that a requirement is not necessary for the full and adequate consideration of the application. The Land Development Official shall set forth in writing the reasons for such determination. When the Commission Permit is required in addition to a special exception, the Commission Permit submission requirements shall be combined with the submission requirements found in Section 3.4.6. and the application shall be reviewed concurrently.

18. Telecommunications Amendments.

In 2003 the Town's first detailed regulations regarding transmission towers were established. Those provisions did not specifically list transmission facilities in the use lists and also need to be updated to take advantage of requirements that give the Council more authority to address the issue. Note that under federal law it is not legal to prohibit cell towers and monopoles from within the Town limits.

Minor changes have been made based on comments of the Commission and the Town Attorney. Note that when shields are necessary to screen signals or lights from ground view due to new development near an existing facility, staff will require the screens to protect new residents. Also, a question was raised about the 150-foot maximum height of monopoles. The Town previously permitted 199-foot towers prior to 2003 and the 150-foot maximum is a common standard effective in helping to reduce the overall number of monopoles in a locality. Note further that under Transmission Towers, Section C.6 has been deleted as redundant. Finally, under Sec. 12.8.4, the Town Attorney

recommended that the authority given to the Land Development Official be given instead to the Zoning Administrator based on legal grounds.

9.3.23. Telecommunication Facilities

~~It is the intent of Town Council that~~ **All** future telecommunications structures, including transmission lines, ~~should above ground structures~~ be placed underground if possible. The following standards have been established to permit the establishment of telecommunications facilities above ground if undergrounding is not feasible in a manner that minimizes the visual impact of towers through careful siting, design, and screening; reduces the potential for damage to adjacent properties caused by tower failure or falling ice; and maximizes the use of any transmission towers and structures through the promotion of co-location so as to minimize the need to construct new towers.

The standards of this section shall apply to all telecommunication uses and structures.

A. Antennas. Roof top mounted antennas and related unmanned equipment may be developed subject to the **criteria** ~~performance standards~~ below to the extent permitted by-right in the district use lists and as listed below:

1. Such antennas and related equipment may exceed the maximum building height limitations, provided the use is in accordance with the development criteria herein.
2. Omnidirectional or whip antennas shall not exceed twenty (20) feet in height or seven (7) inches in diameter and shall be of a material or color which matches the exterior of the building or structure.
3. Directional or panel antennas shall not exceed five (5) feet in height or two (2) feet in width and shall be of a material, ~~or~~ color, **or finish that minimizes the visual impact of the structure and emulates the exterior of the building or structure on which it is mounted.** ~~which matches the exterior of the building or structure.~~
4. Satellite and microwave dish antennas shall not exceed **one and eight tenths (1.8) meters** or six (6) feet in diameter and shall be screened from sight.
5. No commercial advertising shall be allowed on any antenna.
6. Signals or lights or illumination shall not be permitted on any antenna, unless required by the Federal Communications Commission, the Federal Aviation Administration, State or Federal authorities, or the Town. **When signals or lights are required, shields shall be installed that screen the signals or lights from ground view.**
7. The related unmanned equipment structure(s) shall not contain more than 750 square feet of total floor area on each site. Structures shall not exceed 12 feet in height. If located within the structure upon which the antennas are mounted, they may be located in the areas which are excluded from the determination of net floor area without changing the exclusion of those areas from the calculation of the density of the

structure. The structure shall be of a material or color which matches the exterior of the building or structure.

8. If the equipment structure is located on the roof of a building, the area of the equipment and structures shall not occupy more than twenty-five (25) percent of the roof area.
9. Equipment buildings located on the grounds shall meet the minimum yard requirements of the zoning district in which located.
10. Antennas and related unmanned equipment are permitted on an existing transmission or communication tower or pole in any district.
11. Antennas and related unmanned equipment are permitted in any zoning district on buildings and structures owned or controlled by a public use, fire and rescue station, or Leesburg Town governmental unit.

B. Monopoles. Monopoles and related unmanned equipment may be developed subject to the standards below to the extent permitted by special exception in the district use lists.

1. The height of such monopole shall not exceed 150 feet, including antennas.
2. Satellite and microwave dishes attached to monopoles shall not exceed one and eight tenths (1.8) meter in diameter.
3. All lots where a monopole facility is located shall comply with the required setbacks in the underlying zoning district between the base of the tower, accessory structures and uses, and guy anchors to all property lines as well as the following setback requirements: ~~Monopoles shall be subject to minimum yard requirements and shall not be located any closer than one (1) foot for every five (5) feet in height to any property line. Structures and building may be constructed within the setback areas of the monopole, provided other zoning standards are met.~~

(a) The minimum setback between monopoles and all property lines shall be a distance equal to fifty percent (50%) of the height of the tower, or the minimum required setback of the district, whichever is greater.

(b) Monopoles shall be setback a minimum of 50 feet from any existing or planned right-of-way, and

(c) Monopoles shall be set back a minimum of 100 feet, or fifty percent (50%) of the tower height, whichever is greater, from the lot line of any adjacent residential use or district.

4. The related unmanned equipment structure(s) shall not contain more than 750 square feet of total gross floor area on each site. Structures shall not exceed 12 feet in height provided that no more than 2 structures are erected. In such cases where more than 2 structures are erected, they shall not be more than 8 feet in height. The structure shall be located in

accordance with the minimum yard requirements of the zoning district in which it is located. The structure shall be of a material or color which matches the exterior of the building structure.

5. Unless otherwise required by the Federal Communications Commission or the Federal Aviation Administration, monopoles shall have galvanized finish or be designed painted with a silver or gray finish to camouflage the monopole.
6. No signals or lights or illumination shall be permitted on a monopole, unless required by the Federal Communications Commission, the Federal Aviation Administration, State or Federal authorities, or the Town. When signals or lights are required, screening such as shields shall be installed to screen the signals or lights from ground view.
7. No commercial advertising or signs shall be allowed on a monopole, including manufacturer's logo or brand name.
8. A commission permit shall be required.
9. No monopole shall be located within one-half mile of the H-1 Overlay District within the Town.
10. No monopole shall be located within a PRN or PRC District.
11. All unused equipment and facilities from a commercial public telecommunications site shall be removed within 90 days of cessation of commercial public telecommunications use and the site shall be restored as closely as possible to its original condition.
12. New telecommunications monopoles shall be designed to accommodate at least three (3) providers. The applicant shall identify the conditions under which future co-location by other service providers are permitted. Co-location may not be waived if required when the Town Council determines, based on substantial evidence produced by the applicant at the time of application, that:
 - (a) The accommodation would cause the size of the monopole to significantly exceed the size of existing towers in the area resulting in an ~~Doing so would~~ create unnecessary visual impact on the surrounding area; or
 - (b) ~~No additional need is anticipated for any other potential user in the vicinity; or~~
 - (c) There exists is valid technological, economic or physical justification making ~~as to why~~ co-location impossible ~~is not possible.~~
 - (d) The Federal Communications Commission (FCC) has issued a written statement that no more licenses for those broadcast frequencies that are eligible to use the monopole will be issued in the foreseeable future.

13. Power Mount facilities (antenna mounted on electrical transmission towers) shall be permitted as a special exception in the same districts as monopoles.

14. A six foot high security fence shall completely surround the tower (and guy wires if used) and equipment building.

15. The monopole shall be designed and constructed to all applicable standards of the American National Standards Institute, ANSI/EIA-222-E manual, as amended. All applications for development of a monopole facility shall verify compliance with these standards.

16. A soil report compliant with the standards found in Appendix I: Geotechnical Investigations, ANSI/EIA-222-E, as amended, shall be submitted to the Town, sealed by a registered soils engineer, to document and verify the design specifications of the foundation for the monopole, and anchors for guy wires if used.

17. Monopoles and antenna shall be designed to withstand wind gusts of up to 100 miles per hour.

C. Transmission Towers. Subject to the issuance of a special exception Transmission towers with related unmanned equipment may be developed subject to the performance standards below to the following criteria: ~~extent permitted by special exception in the district use list.~~

1. The Applicant shall demonstrate to the satisfaction of the Zoning Administrator that there is not an existing alternative structure which will reasonably meet the engineering and service of the proposed telecommunications facility.
2. The height of such tower shall not exceed 150 feet, including antennas.
3. Satellite and microwave dishes attached to the towers shall not exceed one and eight tenths (1.8) meters or six (6) feet in diameter.
4. All lots where a transmission tower facility is located shall comply with the required setbacks in the underlying zoning district between the base of the tower, accessory structures and uses, and guy anchors to all property lines as well as the following setback requirements. Towers shall be subject to the minimum yard requirements, and shall be set back one (1) foot for every five (5) feet in height from the property line. Structures and buildings may be constructed within the setback area of the tower, provided other zoning standards are met.

(a) The minimum setback between transmission towers and all property lines shall be a distance equal to fifty percent (50%) of the height of the tower, or the minimum required setback of the district, whichever is greater.

(b) Transmission towers shall be setback a minimum of 50 feet from any existing or planned right-of-way, and

(c) Transmission towers shall be set back a minimum of 100 feet, or fifty percent (50%) of the tower height, whichever is greater, from the lot line of any adjacent residential use or district.

5. The related unmanned equipment structure(s) shall not contain more than 750 square feet of total gross floor area on each site. Structures shall not exceed 12 feet in height provided that no more than 2 structures are erected. In such cases where more than 2 structures are erected, they shall not be more than 8 feet in height. The structure shall be located in accordance with the minimum yard requirements of the zoning district in which it is located. The structure shall be of a material or color which matches the exterior of the building or structure.

~~**6.** Unless otherwise required by the Federal Communications Commission or the Federal Aviation Administration, towers shall have a galvanized finish or be painted a silver or gray finish.~~

67. No signals or lights or illumination shall be permitted on a tower, unless required by the Federal Communications Commission, the Federal Aviation Administration, State or Federal authorities, or the Town.

78. No commercial advertising shall be allowed on the tower.

89. A commission permit shall be required.

940. No tower shall be located within one-half mile of the boundary of the H-1 Overlay District within the Town.

1044. No tower shall be located within a PRN or PRC District.

1142. All equipment and facilities from a commercial public telecommunications site shall be removed within 90 days of cessation of commercial public telecommunications use and the site shall be restored as closely as possible to its original condition.

1243. New telecommunications towers shall be designed to accommodate at least three (3) providers. The applicant shall identify the conditions under which future co-location by other service providers are permitted. Co-location may not be required when the Town Council determines based on substantial evidence produced by the applicant that:

(a) Doing so would cause the size of the tower to significantly exceed the size of existing towers in the area and would therefore ~~Doing so would~~ create unnecessary visual impact on the surrounding area; or

(b) No additional need is anticipated for any other potential user in the vicinity; or

(c) There is valid technological, economic or physical justification as to why co-location is not possible.

(d) The Federal Communications Commission (FCC) has issued a written statement that no more licenses for those broadcast frequencies that are eligible to use the tower will be issued in the foreseeable future.

1314. A six foot high security fence shall surround completely enclose the tower (and guy wires if used) and equipment building.

1415. The transmission tower shall be designed and constructed to all applicable standards of the American National Standards Institute, ANSI/EIA-222-E manual, as amended. All applications for development of a transmission tower facility shall verify compliance with these standards.

1516. A soil report compliant with the standards found in Appendix I: Geotechnical Investigations, ANSI/EIA-222-E, as amended, shall be submitted to the Town, sealed by a registered soils engineer, to document and verify the design specifications of the foundation for the transmission tower, and anchors for guy wires if used.

1617. Transmission towers and antenna shall be designed to withstand wind gusts of up to 100 miles per hour.

D. Temporary and Mobile and Land Based Telecommunication Testing Facilities. Temporary and Mobile and Land Based Telecommunication Testing Facilities consisting of antennas and related equipment may be permitted in any zoning district subject to the following performance standards.

1. A temporary special permit may be issued by the Zoning Administrator for a period not to exceed (6) months, provided, however, that the Zoning Administrator may approve an extension for up to an additional six (6) months upon written request by the applicant, submitted prior to the expiration date which documents the need for further testing.
2. Such temporary use must comply with all federal, state and County regulations, including but not limited to regulations by the Federal Aviation Administration, the Federal Communications Commission and the Environmental Protection Agency.
3. The temporary testing equipment for the antenna shall be located either in an existing structure or in a construction trailer or in a "cell on wheels trailer" with a valid zoning permit. No construction trailer shall be located in any required parking space.
4. Any clearing or grading of a site for the installation of the construction trailer or antenna shall be the minimum necessary for the proposed use, but in no event shall the disturbed area, excluding an access road, exceed 5,000 square feet in area. The permit shall include a condition requiring that any disturbed area be restored as close as possible to its original conditional.

5. If an existing structure does not provide sufficient height for the antenna, the applicant may erect a temporary pole not to exceed 100 feet in height.
6. There shall be not more than two vehicles parked on the site at any time.
7. No commercial advertising or signs shall be allowed and no signals or lights or illumination shall be permitted on an antenna or temporary pole unless required by the Federal Communications Commission, the Federal Aviation Administration or the Town.
8. The Zoning Administrator shall **require** ~~determine~~ that the use will be appropriately screened from adjacent properties and may require the addition of plantings or the retention of existing vegetation.

12.8.4. Land Use Categories

For the purpose of this article, existing and proposed land uses are divided into four major land uses categories: residential, institutional, commercial and industrial. Each category is subdivided to reflect the intensity of the proposed use. For instance, the residential category is divided into single-family detached, single-family attached and multi-family residential. In those instances where a proposed or existing use is not listed below, the **Zoning Administrator Land Development Official** shall decide which land use category is applicable. If the adjacent property is vacant the property shall be assumed to be the land use recommended in the Land Use Element of the *Town Plan*.

A. Residential

1. Ra - Single-family detached and duplexes
2. Rb - Single-family attached (townhouses)
3. Rc - Multi-family residential

B. Institutional

1. Ia - Low Intensity uses including libraries, post offices, churches and public parking lots, schools, active parks and recreation facilities, W&OD Trail
2. Ic - Emergency Services including hospitals and fire and rescue stations

C. Commercial

1. Ca -Offices and general retail uses under 10,000 square feet gross floor area
2. Cb -Offices and General retail uses over 10,000 square feet gross floor area and minor utilities
3. Cc – Hotels and motels, fast-food restaurants, convenience grocery stores, vehicle sales and service, **monopole and transmission tower telecommunications facilities**, and the airport

18.1.175. Telecommunications Use and/or Structure

A use provided by or a structure utilized by a public service utility or commercial public telecommunications service under the jurisdiction of the Virginia State Corporation Commission and/or licensed by the Federal Communications Commission to provide commercial public telecommunications services. A telecommunications structure may include a tower, monopole, and other antenna support structure or equipment buildings.

Telecommunications use and/or structure does not include non-commercial applications, such as amateur radio operations. Telecommunications use and/or structure does not include those uses or structures that are accessory to and solely used by an individual business. **Telecommunications facilities shall not be considered as a Public Utility Utilities for the purpose of use designation and identifying authorized zoning districts.**

18.146. Public Utility, Minor

A Public **utility utilities**, minor shall include the following: electric transformer, natural gas, ~~telecommunication facilities (including but not limited to exchanges)~~, water and sewer transmission, collection, distribution and metering devices; and water and sewerage pumping stations.

19. Addition of Telecommunications Facilities to District Use Lists – Sec. 9.2

In order to clarify what type of telecommunication facility is permitted where, the use list has been amended to include monopoles, transmission towers, etc.

Sec. 9.2 Use Table

Use Type	Use Standard															
	R E	R 1	R 2	R 4	R 6	R H D	R 8	R 1 6	R 2 2	O 1	B 1	B 2	B 3	B 4	I 1	
Telecommunications Facility																
Antennas										P	P	P	P	P	P	Sec 9.3.23.A.
Monopoles												S	S		S	Sec. 9.3.23.B.
Transmission Tower (lattice type)												S			S	Sec. 9.3.23.C.
Temporary Mobile Land-Based Telecom Testing Facilities	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	Sec. 9.3.23.D.

20. Waiver for Loading Spaces – Section 11.10.2

Section 11.9 stipulates the number of off-street loading spaces that are required for a particular use. There have been occasions when the strict implementation of these requirements has appeared to have an undue impact on certain uses due to the small area of a site and/or the intensity of a proposed use. In order to allow the LDO flexibility in those cases where an applicant can demonstrate the lack of the required loading space the following amendment is proposed:

The Town Attorney recommends that the authority given to the Land Development Official in this waiver be given instead to the Zoning Administrator based on legal grounds.

Sec 11.10 Alternative Loading Provisions

11.10.1 Loading Requirements Within the H-1 Overlay District

~~Loading requirements for uses within the H-1 Overlay District may be waived when the Land Development Official determines in writing that the proposed use can be adequately served by an existing designated on or off street loading facility within close proximity to the proposed use.~~

11.10.12 Shared Loading Facilities

Loading spaces may be provided cooperatively for two or more uses, subject to the approval by the Zoning Administrator ~~Land Development Official~~ and approval of appropriate legal instruments by the Town Attorney to ensure the permanent availability of off-street loading for all such uses. The overall number of loading spaces provided may be reduced ~~by the Planning Commission~~ in those instances where it is demonstrated that adjacent land uses can be adequately served by a shared loading facility. The Zoning Administrator ~~Land Development Official~~ shall make a recommendation to the Planning Commission regarding any such proposed reduction in the number of required loading spaces. The Planning Commission is also authorized to require restrictions on the use and hours of operation of any uses that share loading spaces.

11.10.2. Waiver/Modification of Loading Space Requirements

When the use does not require that goods, merchandise, or equipment be routinely delivered or shipped to or from the subject use by either an American Association of State Highway Transportation Officials (AASHTO) WB-50 or SU type vehicle, then a waiver of the loading space requirement may be granted by the Zoning Administrator ~~Land Development Official (LDO)~~. The request for waiver shall be made to the Zoning Administrator LDO in writing testifying to the nature of the business and justifying the waiver sought. To grant a waiver, the Zoning Administrator LDO must determine that the use will be able to operate properly without routine delivery or shipment of goods, merchandise, or equipment by an AASHTO WB-50 or SU Design Vehicle. The Zoning Administrator LDO shall set forth in writing the grant of modification or waiver with the reasons for such determination.

In those cases when the applicant can properly demonstrate that the use can be adequately and safely accommodated with loading facilities for an AASHTO SU Design Vehicle when a WB-50 Design Vehicle space is required, the Zoning Administrator LDO may modify that requirement to permit the use of the SU Design Vehicle space. Any modification request shall be made in writing to the Zoning Administrator LDO with adequate information testifying to the nature of the business and evidence justifying the modification sought. The Zoning Administrator LDO shall set forth in writing the grant of modification with reasons for such determination.

21. Expanding Housing Types Described in the Zoning Ordinance.

In recent years a number of specific dwelling types have been developed to expand the range of housing types available in most localities. The Zoning Ordinance does not directly define some of these and results in numerous interpretation requests to the Zoning Administrator. In order to provide more guidance to developers the following amendments are proposed:

18.1.103. Multi-Family Dwelling

A building containing three or more dwellings units located on a single lot or parcel of ground where each unit access the outside via a common hallway, stairs or elevators. Such units are located back-t-back, adjacent or stacked on top of each other. Multi-family dwellings shall include apartments, condominiums, triplex dwellings, quadruplex dwellings, and “2 over 2” units.

18.1.30. Cluster Development

~~A neighborhood of single family detached and/or duplex homes developed~~ An alternate means of developing a lot in the R-2, R-4, R-6, and R-8 Districts premised on the concept of design in a manner intended to that preserves and protects sensitive natural or man-made features. Cluster development permits a reduction in lot area, yard and bulk requirements as described in Section 10.3.1 in exchange for ~~the reciprocal provision of creating additional~~ common open space within the cluster.

22. Adding a Procedure for Proffer Appeals.

Section 15.2-2301 of the Code of Virginia specifies that an appeal of a zoning administrator’s interpretation regarding a proffer shall be heard by the Town Council. Article 3.14 describes the procedure for appealing an administrative determination by the Zoning Administrator but it does not explain the procedure for appealing a decision related to a proffer, a separate procedure under the State Code. The proposed procedure is based on actual past practice and the rules followed in the case of an appeal to the Board of Zoning Appeals.

The time frame for the Town Council public hearing has been reduced from thirty days to sixty days based on comments from the Town Attorney.

3.15 Appeals of Proffer Interpretations**3.15.1 Authority.**

In accordance with Section 15.2-2301 of the Code of Virginia, 1950, as amended, the Town Council shall be authorized to hear and decide appeals where it is alleged there is an error in any decision of the Zoning Administrator or any order, requirement, decision or determination made by an administrative official in the administration or enforcement of approved proffers associated with a zoning map amendment. In this capacity, the Town Councils exercises appellate jurisdiction as a quasi-judicial body; its responsibility

is to determine the intent of the proffered condition(s) when applied to a particular situation.

3.15.2 Right to Appeal. Appeals of administrative decisions pertaining to proffered conditions may be filed by any zoning applicant or any other person who is aggrieved by a decision of the Zoning Administrator made pursuant to the provisions of Section 15.2-2299 of the Code of Virginia, 1950, as amended.

3.15.3 Application Filing.

1. Appeal applications shall be filed with the Town Clerk and Zoning Administrator.
2. The required application form must be completed and signed by the applicant and property owner.
3. Appeals shall be filed within thirty (30) days from the date of the decision for which review is sought and shall specify the grounds upon which the petitioner is aggrieved.
4. Upon receipt of an application, the Town Clerk shall accept or reject the application within five (5) business days of the date of submission. Upon acceptance, the Town Clerk shall transmit a copy of the completed application to the Town Council.

3.15.4 Record of Administrative Decision. The zoning administrator shall transmit to the Town Council all papers constituting the record upon which the action appealed is taken.

3.15.5 Public Hearing Notice. The Town Council shall hold a public hearing within ~~thirty (30) ninety~~ days of the date of acceptance of the completed application. Notice of the public hearing shall be provided as required by Section 15.2-2204 of the Code of Virginia, 1950, as amended, and as set forth in Sec. 3.1.9. Any person may appear at the hearing in person or by an attorney at law.

3.15.6 Town Council Review and Decision.

1. The Town Council shall render a decision on the appeal within thirty (30) days of the conclusion of the public hearing.
2. ~~When exercising the appeal power, the~~ The Town Council may reverse or affirm wholly or in part or may modify the decision being appealed.

3.15.7 Approval Criteria; Findings of Fact

An appeal shall be sustained only if the Town Council finds that the zoning administrator erred. The decision of the Town Council shall be accompanied by specific, written findings of fact and conclusions clearly stating the reason for the decision. The Town Council shall file with the zoning administrator its findings with respect to the appeal. The zoning administrator shall serve a copy of the decision on the appellant and upon each other person who was a party of record at the hearing.

3.15.8 Appeals. Any person aggrieved by a decision of the Town Council may appeal said decision to the Circuit Court within thirty (30) days from the date of the Council's decision.

23. Written Notice – Section 3.1.9.A.3.C.

Currently, the notification requirements for rezonings, special exceptions, etc., require the town to send a certified letter to each affected property owner no matter the number, whereas the State Code permits a much less expensive and simpler notice. Therefore, this proposed amendment is intended to replace the registered mail requirement for more than 25 lots with first class mail:

3.1.9 A. 3. Cases Involving more than 25 Tax Map Parcels

- c. Notice shall be sent at least ten (10) calendar days before the hearing by **first class** ~~registered or certified~~ mail to the last known address of an owner as listed in the current Loudoun County real estate tax assessment records or current real estate tax assessment books.

24. Trucking Company Listed as a Prohibited Home Occupation – Section. 9.4.3.D.

An increasing number of individuals seek to run trucking businesses as a home occupation. This leads to trucks being parked in residential neighborhoods which violates Town Code and Zoning Ordinance provisions and leads to neighborhood complaints about the trucks, including noise and traffic. It has been a standing interpretation that such a use is not permitted as a home occupation, a call made under Section 9.4.3.D. "other uses". This addition is intended to codify this interpretation and give notice to citizens.

9.4.3 Home Occupations

D. Prohibited Home Occupations

The following shall be prohibited as home occupations:

1. Automotive detailing, repair or paint shop
2. Dance studio, exercise studio, or similar use
3. Day care center serving more than five children
4. Dog grooming service
5. Funeral chapel, funeral
6. Gift shop
7. Landscape contractor
8. Limousine, hearse, ambulance or taxi service
9. Massage parlors
10. Medical or dental laboratory and/or office
11. Nursing homes
12. Outdoor repair or service
13. Palm reader/clairvoyant
14. Psychiatrist
15. Real estate broker

- 16. Rental of any equipment or other items
- 17. Restaurant
- 18. Truck operator and/or trucking company
- 19. Veterinary hospital and/or office
- 20. Welding or machine shop
- 2021. Wrecking, repossession and/or towing service
- 2422. Other uses determined by the Zoning Administrator to be similar in scope and impact (on the surrounding neighborhood) to those prohibited home occupations listed above.

25. Patio & Deck Setbacks – Section 10.4.5.C.5 Decks & Patios

This amendment is recommended to permit patios (in-ground) to extend to within 2 feet of side or rear property lines, which is the standard for accessory structures such as sheds.

A modification has been made to the end of the section to clarify that required buffer yards must still be met and may not allow a patio to come as close as two feet to the property line.

5. Decks and Patios. Uncovered decks and patios, which are attached to the principal structure and are not more than three (3) feet above grade on the lot may extend into a required side or rear yard within five (5) feet of the property line for single-family detached residences and three (3) feet of the side or rear property line for all other residential uses. Uncovered decks, which are attached to the principal structure and are more than three (3) feet above grade on the lot, may extend into a required rear yard to within twenty (20) feet of the property line, however, side yard requirements shall apply. The preceding setback requirements notwithstanding, if a rear lot line is adjacent to an open space area of a least ten (10) feet in width, a deck may extend into a required rear yard to within fifteen (15) feet of the property line. **A patio adjoining the principal structure may extend into a required side or rear yard within two (2) feet of the property line for all residential uses subject to buffer guidelines.**

26. Deleting Opaque Fence Requirement for Swimming Pools.

Section 10.4.5 specifically requires in-ground pools to be surrounded by an opaque fence to keep children out. Citizens have raised concerns that an opaque fence blocks the view and therefore one cannot see inside the enclosure to tell if a child has fallen in the pool. Staff recommends that Building Officials and Code Administrators (BOCA) rules should be followed in this case. At present, BOCA does not require an opaque fence.

Per Commission comment, the reference in the amendment has been updated to the IRC (International Residential Code).

Section 10.4.5 Minimum Yard Requirements

9. Swimming Pools. A private swimming pool, not exceeding three (3) feet above grade, is permitted in a required minimum side or rear yard to within six (6) feet of a property line, as measured perpendicular from said property line to the outermost edge of the pool coping. Any associated walkway or deck, not exceeding three (3) feet above grade, is permitted in a required minimum side or rear yard to within three (3) feet of a property line. A private swimming pool, or associated walkway or deck, exceeding three (3) feet above grade, shall not be permitted in a required minimum yard. Swimming pools shall not be permitted in front yards. Private pools not exceeding three (3) feet above grade must be enclosed by a ~~an~~ opaque fence with a minimum height of four (4) feet, in compliance with the IRC International Residential BOCA National Building Code.

27. Trucks Parked in Residential Areas – Section 11.5.2

Currently, the weight of a vehicle permitted to be parked in a residential zoning district is 5,000 pounds. Given the existence of SUV's and larger trucks, vehicle weight has increased substantially in the past two decades. The new maximum of 10,300 pounds is based on the gross weight of a Hum-V, an increasingly common vehicle found in residential neighborhoods.

The Commission posed a number of questions regarding this amendment that led to the revisions included below. In particular, the section has been revised to clarify that certain commercial vehicles are permitted while others are excluded. Also, recreational vehicles have been added to clarify that they are permitted.

11.5.2 Trucks Parked in Residential Areas

Parking facilities accessory to residential uses shall be used solely for the parking of passenger vehicles, recreational vehicles or trucks having a gross weight of 10,300-5,000 pounds or less, which are owned by the occupants of the dwelling or their guests.

One (1) commercial vehicle may be stored on the premises whether privately owned or business provided, for the resident's use for commuting and/or work purposes. Such vehicle cannot exceed a one (1) ton capacity. This section shall not apply to commercial vehicles while in the performance of providing delivery or service on the premises.

Vehicles designed to haul garbage, trash, refuse or waste of any type and for the towing and recovery of vehicles are strictly prohibited to be parked on residential properties.

28. Plant Diversity in Small Projects – Section 12.9.4

The ordinance contains a section designed to encourage plant diversity for new projects in order to better ensure the health and survivability of plant materials. The more diverse the plantings, the less likelihood of severe loss due to a disease or insect infestation. This works well for larger comprehensive projects but does not address small infill commercial projects where the dangers are not the same. In order to relieve

the owner from meeting this diversity requirement with a small number of plants the Urban Forester recommends that the diversity standard be relaxed for smaller projects.

12.9.4 Diversity

For each group of plant material (large canopy trees, shrubs, etc.) the plan shall have a diverse mix of species. **In those cases where there are twenty-one (21) or more of one plant type (such as large canopy trees)** the percentage of one species within each group shall not exceed thirty percent (30%) **in cases where there are more than twenty (20) of any plant type. In smaller projects where twenty or less of any plant type are required, the 30% maximum shall not apply.**

29. Residential Driveways – Section 11.6.1.D.

To clarify for all parties concerned when a driveway must be paved the following amendment is proposed:

Language has been added per Commission comments to clarify the “two-foot overhang” allowance.

11.6.1. Parking and Loading Area Design Standards

23. **Pavement Requirements.** Unless otherwise expressly exempt under the provisions of this Zoning Ordinance, all of street parking and loading areas including **residential driveways**, aisles and entrances, shall be paved with durable dust-free hard surface, except as may be specifically authorized within the 100-year floodplain. Individual parking spaces shall be paved; provided however, that a two-foot section of the **standard 18-foot commercial** parking space may be unpaved if the area is landscaped and a raised curb stop is installed **so that the front two feet of the vehicle may overhang the landscaped area**. Off-street parking areas associated with public parks, open space areas and driveways for designated historic landmarks and within the H-1 Overlay District shall be eligible for a waiver from the pavement requirements of this section. The applicant must request the waiver in a letter attached to the application. To grant a waiver or modification the **Zoning Ordinance Land Development Official** must determine that actual pavement is not necessary in the particular case. The **Zoning Administrator Land Development Official** shall set forth in writing the reasons for such determination.

30. Front Yard Parking Area Maximum in Residential Districts – Section 11.6.1.K

Currently there is no minimum area for a front yard parking area in a residential district. This allows individuals to pave or gravel their front yard up to their property line with a neighbor for parking purposes. This has led to a number of citizen comments. To keep

some open space and to keep an appropriate amount of unpaved area in a front yard, the following amendment is proposed:

Based on Commissioner's comments staff measured the front yards in a number of small single-family attached neighborhoods to determine if the proposed percentage would create nonconforming lots. In recently constructed single-family detached subdivisions such as Fox Ridge or Exeter Square the percentage of driveway paving rarely exceeds 25% of the total front yard area. However, the Commission correctly pointed out that this standard could create application difficulties for some existing lots around town, such as along Wilson and Pershing Avenues, and in the Old and Historic District. Many of the older lots in these areas are "shotgun house" lots that are much narrower than permitted by current standards but are legal lots of record. In order to address these practical difficulties staff recommends that the paving percentage standard should not apply to lots below a certain width and inside the H-1 Old and Historic Overlay District.

K. Front Yard Parking Areas

~~Except on any lot improved with a single-family attached dwelling n~~ **No front yard paved surface used for parking shall exceed thirty-five percent (35%) of the size of the front yard of the lot. This provision shall not apply to (1) any lot improved with a single-family attached dwelling; or (2) any lot with an existing lot width of forty-five (45) feet or less; or (3) any lot in the H-1 Old and Historic Overlay District.**

31. Correction of Intent - Section 12.4.1 Street Trees Applicability

Street trees are intended to be within the public right-of-way unless the LDO and the Director of Engineering and Public Works determine otherwise. This amendment clarifies this intent:

12.4.1 Applicability

Street tree planting is required any time a street is constructed, extended or widened, including any capital improvement projects, and all development applications, including No Adverse Impact Certifications, and for all development and redevelopment within the corporate limits except as specifically modified during the rezoning process. This requirement shall apply to all zoning districts. Street trees shall ~~not~~ be located within the public rights-of-way except where the Land Development Official and the Director of Engineering and Public Works determine unacceptable conflicts with public facilities will result.

32. Adding "Child Care Center" to the Buffer Matrix – Sec. 12.8.4.B. Institutional (Buffer)

Prior Zoning Administrator interpretations have classified “child care center” as an institutional use for buffer purposes. This amendment is intended to codify that interpretation:

B. Institutional

1. Ia – Low intensity uses including libraries, post offices, churches, and public parking lots, schools, child care centers, active parks and recreation facilities and the W&OD Trail.

33. Add a Definition for “Industrial/Flex” Use – Article 18

A use that is frequently mentioned for the industrial districts but which is not specifically defined in the Zoning Ordinance is “Industrial/Flex”. This amendment is intended to remedy this situation:

18.1.180 Industrial Flex

Any structure occupied by at least two (2) of the following uses: contractors offices and shops; establishments for production, processing, assembly, manufacturing, compounding, preparation, cleaning, servicing, testing, or repair of materials, goods or products; warehousing establishments; wholesale trade establishments; and offices; provided however that non-office use shall utilize at least 65% of the total gross floor area of the site.

34. Add a definition for “Postal Service” Use – Article 18

A use that is often proposed but which is not listed or specifically defined in the Zoning Ordinance is “Postal Service”. A distinction is made between the federally sanctioned postal service and private postal services such as UPS. These amendments seek to remedy this situation. Note that the actual individual zoning district Use Regulations will have to be amended as well to include these uses.

18.1.139 United States Postal Service

The public department responsible for the transportation and delivery of the mail: where mail is received, sorted and delivered and where postal materials are sold.

18.1.140 Mailing Postal Service

Retail sales or business service establishment to facilitate the transmittal and receipt of letter, bulk and packaging mail.

Sec. 9.2 Use Table

Use Type	Zoning Districts	Use Standard
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	R E	R 1	R 2	R 4	R 6	R H D	R 8	R 1 6	R 2 2	O 1	B 1	B 2	B 3	Θ 2	B 4	I 1	I 2	M 4	
P = Permitted By Right S = Special Exception Approval Required (Sec. 3.4)																			
Commercial Uses																			
Mailing Postal Service										P	P	P	P		P				
Institutional and Community Service Uses																			
U.S. Postal Service	S	S	S							P	P	P	P		P	S			

11.3 Number of Parking Spaces Required

Parking Standards Table	
Type of Use	Minimum Number of Spaces Required
Institutional and Community Service Uses	
Postal Service	1.0 per 2.5 patrons based on occupancy capacity, plus 1.0 per employee on the major shift and 1.0 per postal vehicle stored on site.

35. Amend definition for “Warehouse” Use – Article 18

The definition for “warehouse” currently states that such a facility may also be used for “wholesale sales” without any description of the percentage of the space or the intensity of such “wholesale sales” use. The problem has been regulating the sales portion of such a use, which has on at least two occasions turned into retail sales outlets. Rather than confuse or mislead potential users, staff recommends that wholesale sales be eliminated from the definition as indicated below:

18.1.188 Warehouse

A structure used ~~primarily~~ for the storage of goods and materials which may also include ancillary wholesale sales not to exceed 25% of the site.

36. Add standards for emergency shelters such as a warming center or domestic abuse shelter - Articles 9, 11 and 18

The local increase in both population and the cost of living has generated a need for facilities serving the underprivileged and homeless or temporarily displaced persons. This includes a need for facilities that assist people in economic distress to find jobs and, in extreme weather, temporary shelter from the elements. The Zoning Ordinance does not reference any such facility so a “warming center” is proposed to remedy this deficiency:

18.1.188.1 Warming Center

A facility serving those in need of assistance due to economic hardship that provides temporary overnight accommodations when the temperature falls to 34 degrees

Fahrenheit or below. The facility may provide a meal and bed for a one night stay for up to twelve (12) persons but the length of stay cannot exceed a twelve (12) hour period. The center may include additional assistance such as shower and laundry facilities, lockers, mail, phone, fax and internet services to assist their clients with employment opportunities.

Sec. 9.2 Use Table

Use Type	Zoning Districts																Use Standard		
	R E	R 1	R 2	R 4	R 6	R H D	R 8	R 1 6	R 2 2	O 1	B 1	B 2	B 3	O 2	B 4	I 1	I 2	M 4	
P = Permitted By Right S = Special Exception Approval Required (Sec. 3.4))																			
Institutional and Community Service Uses																			
Warming Center										S	S	S	S						Sec. 9.3.28

9.3.28 Warming Center

- A. A warming center must be located within an independent, free-standing building not associated with a multi-tenant structure.
- B. A warming center may be allowed as an ancillary use with Special Exception approval from the Leesburg Town Council in accordance with Sec. 3.4 in a Place of Worship located within the zoning district which permits the warming center use.
- C. No such facility shall be located within a 1/2 mile of an existing warming center.
- D. No such facility shall be located within 300 feet of a residential use.
- E. A warming center may be permitted a maximum of twelve (12) beds.

11.3 Number of Parking Spaces Required

Parking Standards Table	
Type of Use	Minimum Number of Spaces Required
Institutional and Community Service Uses	
Warming Center	1.0 per four (4) beds, plus 1.0 per employee

37. Special Exception Concurrent Review – Section 3.4.5

The ordinance currently requires special exception applications related to a rezoning to track simultaneously with that rezoning. The problem is that at this stage of development an applicant is often unable or not prepared to supply the detail necessary to determine if the potential negative impacts of a proposed special exception use will be adequately mitigated. On the other hand, there are cases where a small rezoning is coupled with a proposed special exception use and it is practical to supply the necessary level of detail to determine the impact of the special exception. Rather than require the special exception to track simultaneously with the rezoning or to completely prohibit the

practice, staff recommends Sec. 3.4.5 be amended to give the zoning administrator the authority to permit simultaneous tracking in appropriate cases based on the complexity of the use and the level of detail provided by the applicant.

3.4.5 Concurrent Review

If the property subject to the special exception application is also under consideration for rezoning, the special exception application ~~may~~ will be reviewed concurrently with the rezoning application. The Zoning Administrator shall have the authority to determine if the special exception application(s) shall be permitted to track with the rezoning based upon the level of detail supplied by the applicant (i.e., sufficient detail to satisfy the requirements of Sec. 3.4.6). A separate application form and applicable fee must be submitted for each review process. A concurrent review of the special exception application and the rezoning application shall automatically waive the specific time limitations otherwise applicable to special exception matters, but will not waive any of the time limitations applicable to rezonings as set out in Section 3.3.

38. Modification of Rear Yard Setbacks in the B-1 District

The B-1 District contains a large number of commercial buildings that do not conform to the current 20-foot rear yard setback requirement. These buildings are generally located directly adjacent to the public street on King, Loudoun and Market Streets in the downtown area. One of the reasons for a setback is to give open space between commercial and residential uses, particularly single-family detached dwellings. In places along certain streets in the downtown area there is a settled development pattern where there are no single-family detached dwellings and the only residential use is in existing buildings with commercial on the first or lower floors with some apartments on the upper floors. Some of the existing lots are extremely small and are rendered impractical for development or redevelopment due to their small size. Based on these facts, the following amendment to the B-1 rear yard setback is proposed:

6.3.3.D B-1, Community (Downtown) Business District

B-1 District Standards	
D. Minimum Yards/Setbacks (feet)	
Front	[1]
Side	5[2][3]
Rear	20 [4][5]
E. Maximum Building Height (feet)	
Residential	35
Nonresidential	45

- [1] Minimum Front Setback: 1 foot; Maximum front setback: 20 feet. Actual setback determined in accordance with Sec. 10.4.5.D.

- [2] No side yards/setbacks are required for lots fronting on Market Street, Loudoun Street, King Street, Wirt Street or Liberty Street.
- [3] Side yard setback shall be 0 feet for an interior townhouse lot.
- [4] Rear yard setbacks for a commercial use or mixed use may be reduced or be provided as a zero-yard setback if all of the following criteria are met: (a) the property fronts on Market Street or Loudoun Street between Liberty and Church Streets; or on King Street between Cornwall and Loudoun Streets; (b) the property contains 4,000 square feet or less; (c) the rear yard is adjacent to non-residential uses; and (d) the applicant can demonstrate to the satisfaction of the Board of Architectural Review and Zoning Administrator that the proposed setback will facilitate a structure that is harmonious and compatible with surrounding properties.
- [5] Rear yard setbacks for residential uses may be reduced to fifteen feet (15') if all of the following criteria are met: (a) the property fronts on Market Street, Loudoun Street or Royal Street between Liberty and Church Streets; or on King Street, Wirt Street or Liberty Street between Market Street and Royal Street; and (b) the applicant can demonstrate to the satisfaction of the Board of Architectural Review and Zoning Administrator that the proposed setback will facilitate a structure that is harmonious and compatible with surrounding properties.

39. F.A.R. for Hotel Uses in the B-2 District

In 2003 a Floor Area Ratio of 0.3 was established in the B-2 Established Corridor Commercial District in order to preserve a suburban appearance and to minimize the potential for large nonresidential buildings adjacent to single-family attached residential uses where the B-2 District abuts residential districts. In addition, increased buffer yards and increased setbacks were created in order to lessen the impacts of nonresidential on residential uses. One consequence of this action was to restrict the size and feasibility of large motels in the B-2 District adjacent to the Route 7/15 bypass. Such motels, such as the Comfort Suites or Hampton Inn already exceed a 0.3 F.A.R. and wish to expand, an impossibility under the current F.A.R. Motel uses require a large amount of internal open space devoted to hallways and lobbies, so the existing F.A.R. leaves little practical room for rooms. The proposed amendment recommends that the F.A.R. be removed from hotel uses in the B-2 District, and that they be allowed to expand to the extent permitted by setback, buffer, parking and height requirements:

6.4.3 Density/Intensity and Dimensional Standards

All development in the B-2 District shall be subject to the following standards (See also Article 10):

B-2 District Standards	
A. Minimum Lot Area (square feet)	
All Development	20,000
B. Minimum Lot Width (feet)	
All Development	100
C. Maximum Floor Area Ratio	0.3[3][4]
D. Minimum Yards/Setbacks (feet)	
Front	20[1]
Side	10
Rear	20
E. Maximum Building Height (feet)	
Residential	35
Nonresidential	45[2]
F. Minimum Zoning District Area (acres)	5

- [1] New or expanded developments within the B-2 District may have up to a minimum front yard setback of 5 feet if the development of the lot or a development of a combination of abutting lots has at least 400 feet of front yard road frontage. The 5-foot setback is also subject to the following provisions:
- Parking or loading areas for motor vehicles or storage of materials or equipment shall not be located within the reduced front yard setback.
 - The total square footage of all structures shall not exceed the maximum allowable square footage permissible within the required setbacks.
 - The Director of Engineering and Public Works shall determine that such development will not interfere with necessary public improvements or required landscaping.
 - The front facade of a building shall have as its primary orientation the adjacent roadway from which the front yard setback reduction is requested.
 - Fencing or wall located within the front yard setback shall not exceed 42 inches above grade.
- [2] See Sec. 10.4.5.F.
- [3] When a private structured parking facility is provided as part of a development, the F.A.R. may be increased to a maximum of 0.55
- [4] This F.A.R. maximum shall not apply to hotel/motel use.

Attachments: 1. Initiation Resolution